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IN THE
COURT OF APPEALS OF INDIANA

JASON LYNN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0708-CR-746
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Robert Hurley, Judge Pro Tempore
Cause No. 49G21-0705-FD-81385

March 26, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Jason Lynn appeals his conviction for Attempted Invasion of Privacy, as a Class A misdemeanor.[1] Lynn raises one issue for our review, namely, whether the State presented sufficient evidence to support his conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

On March 18, 2007, Lynn was placed on probation for Arson, as a Class D felony, and Criminal Mischief, as a Class A misdemeanor. As a condition of Lynn's probation, the court ordered that he have no contact with his father, Michael Lynn ("Michael"). Lynn was aware of the no-contact order.

On May 7, one of Michael's neighbors saw Lynn at Michael's house and in the field behind Michael's house. That neighbor called the local police, but the police did not find Lynn. Between 10:00 and 11:00 the next morning, that same neighbor saw Lynn inside a pickup truck belonging to Michael and located in Michael's back yard. The neighbor again called the police, who arrived and arrested Lynn. Although Michael did not usually leave for work until around 11:00 in the morning, Michael was not at his residence when Lynn was seen by the neighbor.

On May 9, the State charged Lynn with invasion of privacy, as a Class A misdemeanor, and the State filed a separate information alleging that violation to be a Class D felony due to a previous offense. The court held a bench trial on June 27 and

[1] The State asserts that Lynn was convicted of attempted invasion of privacy, as a Class D felony. But the CCS, abstract of judgment, and trial court's statements during sentencing only reference the Class A misdemeanor. Indeed, in reforming Lynn's conviction—which Lynn does not address on appeal—the trial court stated that the Class A misdemeanor would "preclude enhancement . . . of the D felony." Transcript at 38.

found Lynn guilty of the Class A misdemeanor. Lynn then stipulated to the prior offense, and the court found him guilty of invasion of privacy, as a Class D felony. On July 11, Lynn filed a Motion to Correct Error, which the court granted on July 26. The court then reformed Lynn's conviction to attempted invasion of privacy, as a Class A misdemeanor and entered judgment accordingly. The court sentenced Lynn to one year incarceration with all but 160 days suspended. This appeal ensued.

DISCUSSION AND DECISION

Lynn asserts that the State failed to present sufficient evidence to support his conviction. When reviewing a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the judgment and the reasonable inferences that may be drawn from that evidence to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

To prove attempted invasion of privacy, as a Class A misdemeanor, the State was required to show beyond a reasonable doubt that Lynn "engage[d] in conduct that constitute[d] a substantial step toward" "knowingly or intentionally violat[ing] . . . a no[-] contact order issued as a condition of probation." Ind. Code §§ 35-41-5-1, 35-46-1-15.1(6) (2004). "Contact is defined as 'establishing of communication with someone' or 'to get in communication with.'" Wright v. State, 688 N.E.2d 224, 226 (Ind. Ct. App. 1997) (quoting Webster's Dictionary 249 (10th ed. 1993)). "Communication occurs

when a person makes something known or transmits information to another." Id. (citing Ajabu v. State, 677 N.E.2d 1035, 1042 (Ind. Ct. App. 1997), trans. denied). "Further, communication may be either direct or indirect and is not limited by the means in which it is made known to another person." Id.

Here, Lynn argues that "we have no direct or circumstantial evidence that [Lynn] knowingly attempted to violate the no[-]contact order." Appellant's Brief at 5. But the evidence shows that Lynn visited Michael's residence on consecutive days, roaming the field behind Michael's house and spending time inside a pickup truck in Michael's back yard. Further, Lynn was seen at Michael's residence between 10:00 and 11:00 in the morning, even though Michael did not usually leave for work until around 11:00 a.m. On that record, a reasonable trier of fact could conclude that Lynn took a substantial step toward contacting Michael in violation of the no-contact order. Lynn's arguments to the contrary are nothing more than requests for this court to reweigh the evidence, which we will not do. See Jones, 783 N.E.2d at 1139.

Affirmed.

BAILEY, J., and CRONE, J., concur.